

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 680 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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BHAILALABHAI TRIBHOVANBHAI PATEL

Versus

DAHAYABHAI TRIBHOVANBHAI PATEL  
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Appearance:

MR JITENDRA M PATEL for Petitioner  
MR HARSHAD J SHAH for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/02/2000

ORAL JUDGEMENT

1. Both the courts have not considered it to be a fit case to exercise their discretionary powers to grant interim relief in favour of the petitioner. The petitioner is claiming himself to be in possession of the suit property but both the courts below have concurrently held that he is not in possession of the suit property. The plea of the partition of the property has also not

been accepted. It is not in dispute that the land in question continues to be in the name of the respondent in the revenue record and the respondent is also continuing paying the revenue to the Government since 1986 till the date of the suit. The partition appears to have been taken place in 1986 but it is also not in dispute that the petitioner has not taken any step to get this award to be made a rule of the court. The petitioner has also not taken any step to get necessary correction in the revenue record.

2. Much emphasis has been placed on the orders given by the courts in the previous suit. In the previous suit, the respondent was plaintiff. Those orders were passed while deciding Ex.5 and appeal against that order by the appellate court. Those findings are only provisional and tentative findings to arrive on the question of prima-facie case, irreparable injury and balance of convenience. It is not the final decision given in the suit re: respective right, title and interest in the suit property. It is not in dispute that the suit has been withdrawn by the respondent unconditionally. It is not correct to say that those documents were not before the court. The court has noticed those documents and the plaintiff has also placed reliance those documents. After considering the totality of the facts of this case, both the courts concurrently held against the petitioner on the question of possession and these findings does not suffer from any perversity.

3. This revision application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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